SENATE RECORD VOTE ANALYSIS

106th Congress September 13, 2000, 11:12 a.m.
2nd Session **Vote No. 240** Page S-8449 Temp. Record

CHINA TRADE/Definite Timetable for Surge Protection Decisions

SUBJECT: **United States-China Relations Act of 2000 . . . H.R. 4444. Byrd amendment No. 4131.**

ACTION: AMENDMENT REJECTED, 33-62

SYNOPSIS: As introduced, H.R. 4444, the United States-China Relations Act of 2000, will allow the President to grant the People's Republic of China permanent normal trade relations (PNTR) status with the United States. (Normal trade relations status, which was formerly called most favored nation status, provides lower United States tariffs against foreign goods. China currently has normal trade relations status on a temporary basis.)

The Byrd amendment would strengthen the protections given to United States businesses from market-disrupting surges of Chinese imports. H.R. 4444, as amended and passed by the House, will provide the possibility of relief to domestic industries and workers when Chinese products are being imported in such increased quantities as to cause or threaten to cause market disruption to the domestic producers of like or directly competitive products. The bill will set timetables: for the International Trade Commission (ITC) to investigate and recommend remedies for import surges; for China and the United States to attempt to resolve any recommendations from the ITC for remedies; and for the President to decide whether to implement remedies if China and the United States do not reach agreement. The President will have authority to overrule an ITC decision only if he determines that providing relief would have an adverse impact on the United States economy clearly greater than the benefits of such action, or that such action would cause serious harm to the national security of the United States. The bill is silent as to what will happen if the President fails to meet a deadline. The Byrd amendment would address that possibility by providing that if the President failed to reach a decision by a deadline then the ITC's recommendation would go into effect.

Those favoring the amendment contended:

This amendment would improve the certainty of the implementation of import relief from Chinese imports in those cases that the ITC finds that surges in those imports are harming domestic producers of like or directly competitive products. Current law

(See other side)

YEAS (33)		NAYS (62)				NOT VOTING (5)	
Republicans (19 or 37%)	**Democrats (14 or 32%)**	**Republicans (32 or 63%)**		**Democrats (30 or 68%)**		**Republicans (3)**	**Democrats (2)**
Abraham	Bayh	Allard	Hagel	Baucus	Inouye	Gorton-2	Akaka-2
Ashcroft	Byrd	Bennett	Hatch	Biden	Johnson	Jeffords-2	Lieberman-2
Bunning	Edwards	Bond	Kyl	Bingaman	Kerrey	McCain-2	
Campbell	Feingold	Brownback	Lott	Boxer	Kerry		
Collins	Hollings	Burns	Lugar	Breaux	Landrieu		
DeWine	Kennedy	Chafee	Mack	Bryan	Lautenberg		
Gregg	Kohl	Cochran	McConnell	Cleland	Lincoln		
Helms	Leahy	Craig	Murkowski	Conrad	Miller		
Hutchinson	Levin	Crapo	Nickles	Daschle	Moynihan		
Hutchison	Mikulski	Domenici	Roberts	Dodd	Murray		
Inhofe	Rockefeller	Enzi	Roth	Dorgan	Reed		
Santorum	Sarbanes	Fitzgerald	Smith, Gordon	Durbin	Reid		
Sessions	Torricelli	Frist	Stevens	Feinstein	Robb		
Shelby	Wellstone	Gramm	Thomas	Graham	Schumer		
Smith, Bob		Grams	Voinovich	Harkin	Wyden		
Snowe		Grassley	Warner				
Specter							
Thompson							
Thurmond							

EXPLANATION OF ABSENCE:
1—Official Business
2—Necessarily Absent
3—Illness
4—Other

SYMBOLS:
AY—Announced Yea
AN—Announced Nay
PY—Paired Yea
PN—Paired Nay

provides some protections, but current law is inadequate, due partially to the difficulty of proving disruptions when dealing with state-owned enterprises and due partially to the Clinton/Gore Administration's unwillingness to enforce current law. The United States Trade Representative, in recognition of the difficulty in enforcing anti-dumping laws against state-owned enterprises, negotiated special protections against dumping in the bilateral trade agreement between China and the United States. The House, in this version of the bill, added language to deal with the possibility that the President may not enforce those new protections (it added timetables to require the Administration to decide, within 70 days of a finding of illegal import dumping by China on our markets, whether remedies should be provided). The House language, though, is not strong enough because it does not take into consideration the possibility that the President may ignore the law. If 70 days pass, and the President does nothing, nothing will happen. The Byrd amendment would fix this problem by automatically implementing trade remedies should the President fail to meet a 70-day deadline.

The need for the Byrd amendment is illustrated by the steel wire rod case. The United States steel wire rod industry filed for relief under Section 201 of the trade law on December 30, 1998, and followed lengthy, costly procedures consistent with the statute. The domestic wire rod industry was encouraged after a recommendation for relief was provided by the ITC, and the industry looked eagerly to the President's decision, which was required under statute within 60 days, or by September 27, 1999. The United States steel wire rod company officials, workers, and their families and communities waited, and waited, and waited. However, September 1999 came and went, and imports continued to rise. Finally, 5 months late, the President announced that relief would be granted to the industry.

Chinese state-owned enterprises continue to be a major source of jobs in China. Many of these state-owned enterprises are directly controlled by the Chinese Government and they play a central role in China's monetary scheme. In fact, the Bureau of National Affairs reported on July 21 of this year that the China Daily quoted Yang Zilin, President of the Export-Import Bank of China, as saying that China's state-backed financing played a strong role in boosting China's exports in the first half of this year. In other words, China acknowledges the systematic use of export subsidies to help boost China's skyrocketing exports. In case anyone is wondering, export subsidies directly impede the ability of American firms to compete with the Chinese.

This amendment is consistent with the goals of the House-passed China PNTR bill. It improves the certainty of the implementation of import relief in cases of affirmative determinations by the ITC of market disruption to domestic producers of like or directly like products. It has been widely proclaimed by the White House and many in Congress supporting the China PNTR legislation that the product-specific safeguard provisions are a critical component of the United States-China bilateral agreement. This amendment ensures compliance to the timeframe that Congress intends. More importantly, it provides a standard upon which American workers and American businesses can rely. We urge our colleagues to support this amendment.

Those opposing the amendment contended:

We oppose this amendment with reluctance because we are quite supportive of taking whatever action is necessary to ensure that the President takes seriously the deadlines set forth in our trade remedy statutes. In fact, we would like to take a few minutes now to express our mounting concern about the White House's weak enforcement record. Frankly, we are very unhappy about the President's failure to issue decisions in sensitive trade matters by the deadlines set forth in the statutes. There are many examples. The most notable may be two recent section 201 cases, the first involving lamb meat and the second relating to steel wire rod. Both these decisions languished somewhere at the other end of Pennsylvania Avenue for weeks--in direct violation of the law--before the President finally issued his decision. We are seeing the same thing now in the context of the President's decision on modifying the retaliation list in the bananas dispute. We may agree or disagree with whatever decision the President ultimately chooses to make in each of these cases. But the credibility of the trade laws rests on the process being handled with a great deal more respect and seriousness than it has been thus far.

With that said, we must still oppose this amendment. As a practical matter, there are many instances in which the process established in the proposal will simply be unworkable. For example, it is not unusual for the ITC to be divided on its recommendation of relief in a particular case. Because the Commission often speaks with many voices, it is unclear which of the Commissioner's recommendations would take effect under this amendment. These problems could have been avoided had the proposal been given careful committee consideration before bringing it to the floor. The next major problem with this amendment is that it would treat China differently than all other countries. While this provision may not be inconsistent with the United States-China bilateral agreement, applying different rules to China in how we administer our trade laws could well jeopardize our ability to secure the benefits of the underlying trade agreement. Finally, we must oppose this amendment for the procedural reason that we have stated many times during these deliberations--if an amendment is agreed to, a conference with the House will be required. The House may not have enough votes this close to the next election to pass a conference report, and the Senate may not have enough time this close to the end of the session to overcome a filibuster on a conference report. Thus, a vote for any amendment, including this one, is a vote to kill PNTR. We favor PNTR, and thus oppose this amendment.